

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**ADRIAN WILL and
MARIA YOURGLASS,**

Plaintiffs,

v.

No. 14-cv-221-DRH-SCW

**PROGRESSIVE NORTHERN
INSURANCE COMPANY,**

Defendant.

MEMORANDUM & ORDER

HERNDON, District Judge:

I. Introduction

Pending before the Court is a Report and Recommendation (“the Report”) issued by Magistrate Judge Stephen C. Williams pursuant to 28 U.S.C. § 636, LOCAL RULE 72.1(b)(2). (Doc. 38). The Report recommends that the Court grant defendant’s motion to dismiss for lack of prosecution and dismiss with prejudice Adrian Will’s cause of action (Doc 28). The Report was sent to the parties with a notice informing them of their right to appeal through the filing of objections on or before January 9, 2015. To date, none of the parties have filed objections, and the period in which to file objections has expired. Based on the following, the Court **ADOPTS** the Report in its entirety (Doc. 38).

II. Background and Analysis

The Report's recitation of the record in this matter shows a clear failure to prosecute. The Court notes a scrivener's error in the first paragraph, in that, it refers to plaintiff as Adrian Rich, however, in all other places in the report and the record it is clear that it is plaintiff, Adrian Will, to which the matter is directed. Therefore, the Court finds that the plaintiff cannot reasonably be confused by this obvious harmless error. The Report finds that on August 18, 2014, counsel for Plaintiff Adrian Will filed a Motion to withdraw as attorney, citing a breakdown in communication. (Doc. 31). Judge Williams held a hearing on the matter on September 2, 2014, at which plaintiff failed to appear (Doc. 33). Plaintiff was given 21 days following the hearing to retain counsel or enter an appearance to proceed as a pro se plaintiff. (Doc. 34). To date, plaintiff has done neither. Plaintiff again failed to appear at a status conference before Judge Williams on October 9, 2014 (Doc. 36). During this time, plaintiff also failed to respond to written discovery in this case, which closed on December 7, 2014. Moreover, plaintiff remained unavailable for deposition. (Doc. 37).

On December 19, 2014, plaintiff did finally appear at a status conference at which time he indicated for the first time that he moved residences and provided the Court with his new address. (Doc. 37). However, following the status conference and issuance of the Report at issue, notices were returned as undeliverable (Docs. 39, 40). It appeared that plaintiff had again moved without notifying the Court. Failing to notify the Court and opposing counsel

of plaintiff's change of address is another example of how Will has failed to timely prosecute this matter. *See* SDIL-LR 83.1(g)(2) (evidenced by the returned mail on December 24, 2014 (Doc. 39) and December 26, 2014 (Doc. 40)).

The Report was sent to the parties with a notice informing them of their right to appeal by way of filing "objections" within ten days of service of the Report. As noted above, plaintiff's notice was returned as undelivered. In accordance with 28 U.S.C. § 636(b)(1)(B), the parties were allowed fourteen days to file written objections. As of this date, neither party has filed an objection. Therefore, pursuant to 28 U.S.C. § 636(b), the Court need not conduct *de novo* review. *Thomas v. Arn*, 474 U.S. 140, 149-52 (1985).

III. Conclusion

Accordingly, the Court **ADOPTS** the Report in its entirety (Doc. 38). The Court **GRANTS** defendant's motion to dismiss for lack of prosecution and **DISMISSES with prejudice** Adrian Will's cause of action (Doc. 28). Further, the Court **DIRECTS** the Clerk of the Court to enter judgment reflecting the same at the close of the case.

IT IS SO ORDERED.

Signed this 12th day of January, 2015.

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by David R.
Herndon
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**District Judge
United States District Court**